

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 611**

**Introduced by Assembly Member Negrete McLeod**

February 19, 2003

---

---

~~An act to add Section 1648.30 to the Business and Professions Code, relating to dentistry. An act to add Article 10.3 (commencing with Section 25214.9) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to dental amalgams.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 611, as amended, Negrete McLeod. Dental amalgam separators.

Existing law provides for the licensing and regulation of dentists and dental auxiliaries by the Dental Board of California. *Existing law prohibits the management of hazardous waste except in accordance with the hazardous waste laws. A violation of hazardous waste control laws is a crime.*

This bill would require by January 1, ~~2004~~, 2006, that a dentist have ~~a state-of-the-art~~ an amalgam separator *meeting or exceeding specified standards* installed in his or her office ~~and that he or she or a~~. *The bill would require dentists and dental auxiliary auxiliaries be trained to use, and use, a state-of-the-art an amalgam separator meeting or exceeding the standards.* The bill would impose an administrative fine of \$100 per day on a violator of those requirements, until he or she is in compliance, to be assessed and collected by the ~~board~~ *Department of Toxic Substance Control*. The bill would ~~also require that on March 1, 2004, and annually thereafter, a dentist report to the Department of Toxic~~

~~Substances Control regarding the quantity of mercury discharged into wastewater and the quantity of mercury recycled during the previous calendar year. exclude dentists meeting certain requirements from these provisions. The bill would provide that it does not preempt the authority of a local government entity from further regulation of mercury waste in its jurisdiction.~~

*Because this bill would create new hazardous waste control requirements, the violation of which would be a crime, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature hereby finds and declares the  
2 following:

3 ~~(a) Amalgam dental fillings are 43 percent to 54 percent~~  
4 ~~mercury, according to the Dental Board of California, and contain~~  
5 ~~up to 750,000 micrograms of mercury in each filling.~~

6 ~~(b) National studies and California studies show that the largest~~  
7 ~~source of mercury in the wastewater comes from dental offices.~~  
8 ~~These studies include “Dentist the Menace? The Uncontrolled~~  
9 ~~Release Of Mercury” by Mercury Policy Project, Toxics Action~~  
10 ~~Center, Health Care Without Harm, and the Sierra Club in 2002,~~  
11 ~~which can be found at~~  
12 ~~[www.mercurypolicy.org/new/documents/DentistTheMenace.pdf](http://www.mercurypolicy.org/new/documents/DentistTheMenace.pdf)~~  
13 ~~, and include studies by the City of Palo Alto and the City and~~  
14 ~~County of San Francisco.~~

15 ~~(c) Mercury is a persistent and bioaccumulative toxin, a~~  
16 ~~substance known to the State of California to cause birth defects~~  
17 ~~and reproductive injury. Mercury in fish, emanating from~~  
18 ~~human-generated activity including dentistry, is one major~~  
19 ~~exposure.~~

~~(d) According to the Journal of the California Dental Association:~~

~~(1) The United States dental industry used 48 metric tons of mercury in 2001, an increase from 34 metric tons in 1997.~~

~~(2) A dentist who routinely removes and places dental amalgam can discharge up to 2,000,000 micrograms grams of mercury per day into the wastewater, unless he or she has pollution control equipment. But if a dentist uses only the chairside traps and vacuum filters, he or she discharges about 400,000 micrograms per day into the wastewater, which is approximately the equivalent of the mercury contained in one thermometer.~~

~~(3) Existing technology exists to capture up to 95 percent of the mercury, if state-of-the-art amalgam separators are used.~~

~~(e) Voluntary means of compliance have not worked. Hearings before the City and County of San Francisco found that, after 10 years of cooperation between government and organized dentistry, only 7 percent of dentists bought state-of-the-art amalgam separators.~~

~~(f) Amalgam separators cause substantial declines of mercury going into the wastewater. The City of Toronto, Canada, enacted an ordinance requiring dentists to have separators, and one year later the amount of mercury going into the wastewater declined 58 percent.~~

~~(g) With a substantially declining budget, the State of California needs the private sector to do its share to address further additions of mercury into the environment.~~

~~SEC. 2. Section 1648.30 is added to the Business and Professions Code, to read:~~

~~1648.30. (a) (1) By January 1, 2004~~

~~(a) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment and in the food chain.~~

~~(b) The United States Environmental Protection Agency (EPA) is implementing a National Action Plan for Mercury to minimize the amount of mercury in the environment.~~

~~(c) Recent studies show relatively high levels of mercury accumulating in fish, clams, and other organisms in the San Francisco Bay.~~

~~(d) Mercury arrives at Bay Area wastewater treatment plants every day. The plants release most of this mercury to the environment through treated effluent and sludge disposal. Some of~~

1 *this mercury reaches the Bay and contributes to the overall*  
2 *mercury loading.*

3 *(e) Studies by different wastewater treatment agencies indicate*  
4 *that from 12 percent to as much as 60 percent of the mercury in the*  
5 *wastewater arriving at the treatment plant comes from dental*  
6 *offices.*

7 *(f) Increasingly stringent mercury discharge limits for*  
8 *wastewater treatment plants make reduction of mercury entering*  
9 *wastewater a critical task where the cost of mercury removal at a*  
10 *wastewater treatment plant is far greater than the cost of reduction*  
11 *of mercury at the source.*

12 *(g) While dentists contribute only a portion of the mercury and*  
13 *other pollutants going into the environment, we must all do our*  
14 *share to prevent further pollution and to keep mercury out of the*  
15 *environment.*

16 *(h) Dental amalgam is a mixture of elemental mercury, silver,*  
17 *tin, and copper and is an effective and durable restorative material*  
18 *for some dental applications.*

19 *(i) Amalgam dental fillings are composed of 43 percent to 54*  
20 *percent mercury, according to the Dental Board of California, and*  
21 *contain up to 750,000 micrograms of mercury in each filling.*

22 *(j) According to the Journal of the California Dental*  
23 *Association:*

24 *(1) The United States dental industry used 48 metric tons of*  
25 *mercury in 2001, an increase from 34 metric tons in 1997.*

26 *(2) A dentist who routinely removes and replaces dental*  
27 *amalgam can discharge up to 2,000,000 micrograms of mercury*  
28 *per day into the wastewater, unless pollution control equipment is*  
29 *used.*

30 *(3) If a dentist uses only the chairside traps and vacuum filters,*  
31 *he or she discharges about 400,000 micrograms per day into the*  
32 *wastewater, which is approximately the equivalent of the mercury*  
33 *contained in one thermometer.*

34 *(4) Best Management Practices and the use of International*  
35 *Standards Organization Certificated Dental Amalgam Separators*  
36 *can remove up to 96 percent of the amount of mercury amalgam*  
37 *that is discharged into waterways, and are readily available and*  
38 *affordable in cost.*

1 (k) With a substantially declining budget, the State of  
2 California needs the private sector to do its share to address  
3 further additions of mercury into the environment.

4 SEC. 2. Article 10.3 (commencing with Section 25214.9) is  
5 added to Chapter 6.5 of Division 20 of the Health and Safety Code,  
6 to read:

7  
8 Article 10.3. Dental Amalgams  
9

10 25214.9. By January 1, 2006, a dentist licensed by the State  
11 of California shall have ~~a state-of-the-art~~ an amalgam separator  
12 meeting or exceeding ISO-11143 standards installed in his or her  
13 office.

14 ~~(2)~~  
15 25214.91. By January 1, 2004, a dentist or a dental auxiliary  
16 shall be trained to use, and shall use, ~~a state-of-the-art~~ an amalgam  
17 separator meeting or exceeding ISO-11143 standards.

18 ~~(3)~~  
19 25214.92. A dentist licensed by the State of California who  
20 meets any of the following requirements shall be exempt from the  
21 requirements of this article:

22 (a) He or she removes an amalgam no more than three days per  
23 year.

24 (b) He or she limits his or her practice to one of the following  
25 specialties:

26 (1) Orthodontics.

27 (2) Periodontics.

28 (3) Oral and maxillofacial surgery.

29 (4) Radiology.

30 (5) Oral pathology.

31 (6) Oral medicine.

32 (c) He or she is an endodontologist or prosthodontologist and  
33 does not remove or place amalgam fillings as a service.

34 25214.93. A violation of this ~~subdivision~~ article shall result in  
35 an administrative fine of one hundred dollars (\$100) per day until  
36 the violator achieves compliance with this ~~subdivision~~ article, to  
37 be assessed and collected by the ~~board~~ department.

38 ~~(b) On March 1, 2004, and annually thereafter, a dentist~~  
39 ~~licensed by the State of California shall report to the Department~~  
40 ~~of Toxic Substances Control the following information:~~

~~(1) The quantity of mercury discharged into wastewater during the preceding calendar year.~~

~~(2) The quantity of mercury recycled during the preceding calendar year.~~

~~(e) Section 1648.20 does not apply to this section.~~

25214.93. *This article does not preempt a local government entity from further regulation of mercury waste in its jurisdiction.*

25214.94. *For purposes of this article, "ISO" means the International Standards Organization, which was established in 1947 as a worldwide federation of national standards bodies from more than 140 countries, one from each country. The mission of the ISO is to promote the development of standardization and related activities in the world.*

SEC. 3. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*